

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Securities Investor Protection Corporation

DEFENDANTS

Bernard L. Madoff Investment Securities LLC

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Stim & Warmuth, P.C., 2 Eighth Street, Farmingville, NY 11738
631-732-2000, Attorneys for Appellant

ATTORNEYS (IF KNOWN)
Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, NY 10111
212-589-4200, Attorneys for Trustee

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Appeal of Bankruptcy Order under 28 USC 158 Affirming Application of the Trustee's Inter-Account Method to the Determination of the Trans

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

ACTIONS UNDER STATUTES

CONTRACT

PERSONAL INJURY

PERSONAL INJURY

FORFEITURE/PENALTY

BANKRUPTCY

OTHER STATUTES

[] 110
[] 120
[] 130
[] 140

INSURANCE
MARINE
MILLER ACT
NEGOTIABLE
INSTRUMENT

[] 310 AIRPLANE
[] 315 AIRPLANE PRODUCT
LIABILITY
[] 320 ASSAULT, LIBEL &
SLANDER

[] 367 HEALTHCARE/
PHARMACEUTICAL PERSONAL
INJURY/PRODUCT LIABILITY
[] 365 PERSONAL INJURY
PRODUCT LIABILITY
[] 368 ASBESTOS PERSONAL
INJURY PRODUCT
LIABILITY

[] 625 DRUG RELATED
SEIZURE OF PROPERTY
21 USC 881
[] 690 OTHER

☒ 422 APPEAL
28 USC 158
[] 423 WITHDRAWAL
28 USC 157

[] 375 FALSE CLAIMS
[] 400 STATE
REAPPORTIONMENT
[] 410 ANTITRUST
[] 430 BANKS & BANKING
[] 450 COMMERCE
[] 460 DEPORTATION

[] 150

RECOVERY OF
OVERPAYMENT &
ENFORCEMENT
OF JUDGMENT

[] 330 FEDERAL
EMPLOYERS'
LIABILITY
[] 340 MARINE
[] 345 MARINE PRODUCT
LIABILITY

PERSONAL PROPERTY
[] 370 OTHER FRAUD
[] 371 TRUTH IN LENDING

LABOR
[] 710 FAIR LABOR
STANDARDS ACT
[] 720 LABOR/MGMT
RELATIONS
[] 740 RAILWAY LABOR ACT

PROPERTY RIGHTS
[] 820 COPYRIGHTS
[] 830 PATENT
[] 840 TRADEMARK

[] 470 RACKETEER INFLU-
ENCED & CORRUPT
ORGANIZATION ACT
(RICO)
[] 480 CONSUMER CREDIT
[] 490 CABLE/SATELLITE TV

[] 151
[] 152

MEDICARE ACT
RECOVERY OF
DEFAULTED
STUDENT LOANS
(EXCL VETERANS)

[] 350 MOTOR VEHICLE
[] 355 MOTOR VEHICLE
PRODUCT LIABILITY
[] 380 OTHER PERSONAL
INJURY

PRISONER PETITIONS
[] 453 ALIEN DETAINEE
[] 510 MOTIONS TO
VACATE SENTENCE
28 USC 2255
[] 530 HABEAS CORPUS
[] 535 DEATH PENALTY
[] 540 MANDAMUS & OTHER

LABOR
[] 751 FAMILY MEDICAL
LEAVE ACT (FMLA)
[] 790 OTHER LABOR
LITIGATION
[] 791 EMPL RET INC
SECURITY ACT

SOCIAL SECURITY
[] 861 HIA (1395ff)
[] 862 BLACK LUNG (923)
[] 863 DIWC/DIWW (405(g))
[] 864 SSID TITLE XVI
[] 865 RSI (405(g))

[] 470 RACKETEER INFLU-
ENCED & CORRUPT
ORGANIZATION ACT
(RICO)
[] 480 CONSUMER CREDIT
[] 490 CABLE/SATELLITE TV

[] 153

RECOVERY OF
OVERPAYMENT
OF VETERAN'S
BENEFITS

[] 382 PERSONAL INJURY -
MED MALPRACTICE

PRISONER CIVIL RIGHTS
[] 550 CIVIL RIGHTS
[] 555 PRISON CONDITION
[] 560 CIVIL DETAINEE
CONDITIONS OF CONFINEMENT

LABOR
[] 710 FAIR LABOR
STANDARDS ACT
[] 720 LABOR/MGMT
RELATIONS
[] 740 RAILWAY LABOR ACT

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(RICO)
[] 480 CONSUMER CREDIT
[] 490 CABLE/SATELLITE TV

[] 160

STOCKHOLDERS
SUITS

ACTIONS UNDER STATUTES
CIVIL RIGHTS
[] 440 OTHER CIVIL RIGHTS
(Non-Prisoner)
[] 441 VOTING
[] 442 EMPLOYMENT
[] 443 HOUSING/
ACCOMMODATIONS
[] 445 AMERICANS WITH
DISABILITIES -
EMPLOYMENT
[] 446 AMERICANS WITH
DISABILITIES -OTHER
[] 448 EDUCATION

PRISONER CIVIL RIGHTS
[] 550 CIVIL RIGHTS
[] 555 PRISON CONDITION
[] 560 CIVIL DETAINEE
CONDITIONS OF CONFINEMENT

LABOR
[] 710 FAIR LABOR
STANDARDS ACT
[] 720 LABOR/MGMT
RELATIONS
[] 740 RAILWAY LABOR ACT

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[] 190
[] 195

OTHER
CONTRACT
CONTRACT
PRODUCT
LIABILITY

ACTIONS UNDER STATUTES
CIVIL RIGHTS
[] 440 OTHER CIVIL RIGHTS
(Non-Prisoner)
[] 441 VOTING
[] 442 EMPLOYMENT
[] 443 HOUSING/
ACCOMMODATIONS
[] 445 AMERICANS WITH
DISABILITIES -
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[] 446 AMERICANS WITH
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FRANCHISE

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CIVIL RIGHTS
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REAL PROPERTY

PERSONAL INJURY

PERSONAL INJURY

FORFEITURE/PENALTY

BANKRUPTCY

OTHER STATUTES

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[] 220
[] 230

LAND
CONDEMNATION
FORECLOSURE
RENT LEASE &
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[] 240
[] 245
[] 290

TORTS TO LAND
TORT PRODUCT
LIABILITY
ALL OTHER
REAL PROPERTY

[] 330 FEDERAL
EMPLOYERS'
LIABILITY
[] 340 MARINE
[] 345 MARINE PRODUCT
LIABILITY

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Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

- ORIGIN**
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ a. all parties represented ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

- BASIS OF JURISDICTION**
- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Securities Investor Protection Corporation, 805 Fifteenth Street, N.W., Suite 800,
Washington, DC 20005

Appellant: Michael Most, 8052 Cranes Pointe Way, West Palm Beach, FL 33412

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Bernard L. Madoff Investment Securities LLC
c/o Irving H. Picard, Trustee
Baker & Hostetler LLP
45 Rockefeller Plaza, New York, NY 10111

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE 02-11-15 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO
[X] YES (DATE ADMITTED Mo. 03 Yr. 1985)
Attorney Bar Code # pw0003

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

STIM & WARMUTH, P.C.
2 Eighth Street
Farmingville, NY 11738
Telephone: 631-732-2000
Facsimile: 631-732-2662
Paula J. Warmuth
Glenn P. Warmuth

Attorneys for Claimant

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

-----X
In Re:

BERNARD L. MADOFF,

Debtor.

Adv. Proc. No.
08-01789 (SMB)

SIPA LIQUIDATION

(Substantively
Consolidated)

-----X
CERTIFICATE OF SERVICE

PAULA J. WARMUTH does hereby affirm under the penalties of perjury:

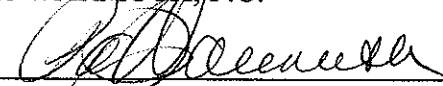
I am not a party to this action. I am over the age of 21 years. I reside at 2 Eighth Street, Farmingville, New York. I am duly admitted to practice law in the State of New York and in the Southern District of New York. On February 11, 2015, I caused a true and correct copy of

the Civil Cover Sheet to be electronically filed with the Court [ECF No. 9269] and served upon the parties to this action who receive electronic service through ECF.

Dated: Farmingville, NY
February 11, 2015

STIM & WARMUTH, P.C.

By: /s/



PAULA J. WARMUTH

Attorney for Claimant,

Michael Most

2 Eighth Street

Farmingville, NY 11738

Telephone: 631-732-2000

Facsimile: 631-732-2662

Paula J. Warmuth

Email: pjw@stim-warmuth.com

Glenn P. Warmuth

Email: gpw@stim-warmuth.com